

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2298

United States of America,

Plaintiff-Appellee,

v.

Jose Antonio Alapizco-Rojas, also
known as Simon Espinoza Lopez,

Defendant-Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: July 22, 2004

Filed: August 12, 2004

Before MELLOY, LAY, and COLLOTON, Circuit Judges.

PER CURIAM.

This matter comes before the court for review on various grounds, including that Defendant was subjected to ineffective assistance of counsel insofar as his trial counsel failed to fully inform him of the consequences of his guilty plea. Defendant's counsel has sought permission to withdraw and filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), setting forth the bases upon which the Defendant appeals.

We do not consider Defendant's claim of ineffective assistance, as this is more appropriately raised in collateral proceedings under 28 U.S.C. § 2255. See United States v. Jackson, 204 F.3d 812, 815 (8th Cir. 2000). We also conclude that Defendant's remaining claims are without merit. Having conducted an independent review of the record in accordance with Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. The district court is affirmed. See 8th Cir. R. 47B.

We also grant defense counsel's motion to withdraw. Counsel is reminded of the obligations under Part V of this Court's Amended Criminal Justice Act Plan. Specifically, counsel is to advise the defendant of the right to file a petition for writ of certiorari in the Supreme Court of the United States, and to inform the defendant as to the merits and likelihood of success in the filing of such a petition. If counsel determines there are meritorious issues, defense counsel shall assist the defendant in filing a petition for writ of certiorari. If counsel determines there are no meritorious issues warranting the filing of a petition for writ of certiorari, counsel shall advise the defendant of the procedures for filing a petition pro se, and the time limits for the filing of such a petition. Counsel shall file a certification with the clerk within 30 days certifying that he has complied with his obligations under Part V.
